



New Motor Vehicle Board

In-Site

January 2007

A Publication of the California New Motor Vehicle Board

07.1 Edition

PRESIDENT'S YEAR END WRAP



David W. Wilson, President

As my second year as president comes to a close, I would like to reflect on what a pleasure it has been to serve on this Board. I believe the Board and staff have upheld our mission of resolving disputes in an efficient, fair, and cost-effective manner.

I am happy to report that the Board is continuing to accomplish its goal of staying up to date on the evolving issues facing this industry. Our Fifth Annual Industry Roundtable was an overwhelming success - with more participants than ever before. Buoyed by this accomplishment, the Board is already planning the Sixth Annual Roundtable. We will again hold the Roundtable in Sacramento in conjunction with the CMCDAA Annual Dealer Day and Scholarship Fundraiser, this year headlined by Jay Leno.

As a fully industry-funded entity, the Board has continued to develop and implement creative ways to cut costs while remaining responsive to the automotive industry.

As president, I am very proud of the tireless work of each of our Board members. Each is busy running their day-to-day business; yet they are willing to devote time and energy to public service with token compensation. The Board continues to function cohesively, and I truly enjoy being a part of it.

Last but certainly not least, I would like to thank the staff for their outstanding performance. As a team they have

insured that disputes are processed fairly, efficiently and expeditiously.

I have enjoyed my tenure as president of the New Motor Vehicle Board and look forward to continuing my service to the industry, either as part of this board or in some other capacity.

Wishing you all a happy and prosperous 2007.

DECEMBER 13, 2006 GENERAL BOARD MEETING HIGHLIGHTS

The New Motor Vehicle Board held a General meeting on December 13, 2006, in Sacramento. At that meeting, the members considered a number of case management as well as administrative matters.

Frontier Infiniti

The Public Members considered the Proposed Decision overruling the protest in *Frontier Infiniti v. Nissan North America, Inc., Infiniti Division*, Protest No. PR-1969-05. Respondent sought to establish a new Infiniti dealership in San Jose. A 12-day hearing was held in July 2006, before Administrative Law Judge (ALJ) Diana Woodward Hagle. After considering the briefs and oral arguments, the Public Members of the Board unanimously adopted the Proposed Decision.

Ron Baker Isuzu

The Public Members were scheduled to consider the "Proposed Order Denying Protestant's Request for Reinstatement of Protest No. PR-1999-06" in *Ron Baker Chevrolet-Isuzu, dba Ron Baker Isuzu v. Isuzu Motors America, Inc.*, Protest No. PR-1999-06. Telephonic hearings on the motion were held on September 25, 2006, and October 10, 2006, before ALJ Anthony M. Skrocki. The Board's consideration was postponed while the parties engaged in settlement discussions. Counsel for Protestant withdrew the motion on behalf of Protestant and indicated

CALRVDA 13TH ANNUAL CONFERENCE

The California Recreation Vehicle Dealers Association (CalRVDA) held its 13th Annual Conference on November 7 and 8, 2006, in Rancho Mirage. The theme of the conference was "Land Mines in the Legal Landscape".

Private sector attorney Aaron Jacoby of the Venable, LLP law firm discussed the single document rule, class action lawsuits, and the Trygar case as they pertain to the RV industry. Mary Garcia, Chief, Occupational Licensing (OL-DMV) presented information on background checks for sales staff, discussed some common enforcement issues, and the type of support OL has available for dealers. The Board's General Counsel, Howard Weinberg, gave a brief history of the Board and discussed how dealers may exercise their rights and avail themselves of the Board's forum for resolving disputes between dealers and franchisors.

CalRVDA's Executive Director, Skip Daum, expressed appreciation for the NMVB's and DMV's professionalism and accessibility to his organization. "Our relationship with these key governmental organizations is totally positive and it's all possible because of the individuals who work there."

100TH ANNUAL LA AUTO SHOW

The theme, "A New Beginning", marked the 100th showing of the newest vehicles from 47 of the world's automobile manufacturers at the L.A. Auto Show, with the highlight being on environmentally friendly cars. Governor Arnold Schwarzenegger attended the show and emphasized the important role that the newest alternate fuel vehicles will play in reducing greenhouse gas emissions in the state and throughout the world. General Motors, Honda, BMW, and DaimlerChrysler were just a few of the companies who presented the alternate fuel powered cars.

Featured at the show were 21 World debuts, 7 concept car World debuts, and 14 North American debuts from various manufacturers.

The show was held one month earlier than previous years to avoid conflict with the Detroit Auto Show, which enabled automakers to stage more debuts, elevating the importance of the LA show within the industry. Executive Director, Bill Brennan attended the show along with Board Members Glenn Stevens and Robert T. (Tom) Flesh, as part of our Board Development Program.



State of California
Arnold Schwarzenegger, Governor

Officers
David W. Wilson,
President
Alan J. Skobin,
Vice-President

Questions or comments:
nmvb@nmvb.ca.gov

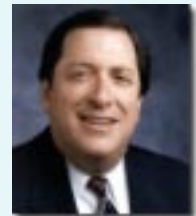
IN-SITE

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Department of Motor Vehicles
George Valverde, Director

New Motor Vehicle Board

Members
Robert Branzuela
Ryan L. Brooks
Robert T. (Tom) Flesh
David C. Lizárraga
Alan J. Skobin
Glenn E. Stevens
David W. Wilson
(2 vacant positions)



**Business, Transportation
and Housing Agency**
Barry R. Sedlik
Acting Secretary

Executive Director
William G. Brennan
bbrennan@nmvb.ca.gov
General Counsel
Howard Weinberg
hweinberg@nmvb.ca.gov
Senior Staff Counsel
Robin P. Parker
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(December 13 Meeting Highlights, cont'd from page 1)



Robert Branzuela, Andy Robles, Glenn Stevens, David Wilson
Sushil Sharma, Ryan Brooks, Alan Skobin, Haig Papaian

additional requests for reinstatement would not be filed. This matter was taken off the Board agenda over counsel for Respondent's objection.

Mega RV

Consideration of the Proposed Order after Remand in *Mega RV Corp., dba McMahon's RV v. Western Recreational Vehicles, Inc.*, Protest No. PR-1983-06, was postponed until the January 2007 General Meeting.

Administrative Matters

A number of staff reports were given on a variety of topics.

The Board presented former Public Member Sushil Sharma with a resolution for his contribution to the Board, to the motor vehicle industry, and to the people of the State of California. The Board unanimously approved the presentation of a resolution to Sunne Wright McPeak, former Secretary, Business, Transportation & Housing Agency. This resolution is scheduled for presentation at the March 28, 2007, General Meeting in Sacramento.

George Valverde, Director of the Department of Motor Vehicles, addressed the Board and highlighted the DMV's Strategic Plan which focuses on customer service, driver safety, and identity protection.

The members unanimously approved revised waiver limits for the Board's document request and facsimile request policies. Other than the waiver limits, the document request policy remained unchanged, that is, the Board will continue to charge fees that are consistent with Evidence Code section 1563 (\$.10 per page and \$24.00 per hour of labor, computed on the basis of \$6.00 per quarter hour or fraction thereof). The revised waiver limit provides that all fees for document requests that total \$10.00, (up from the former limit of \$6.00), or less will be waived by the Board, subject to review and approval by the Executive Director. The former facsimile request policy charged a per page fee depending on the area

code to which the documents were faxed. Given the limited number of such requests, the nominal amount of revenue generated, and the Board's surplus, the facsimile request policy was modified. Henceforth, if an individual requests a limited number of faxes, they will be provided without charge. If an excessive number of documents are requested via fax, then the requestor will be referred to an independent attorney support service to make arrangements to do so.

The members unanimously voted to request the Department of Motor Vehicles to initiate proceedings to withhold the renewal of Western Golf Car Manufacturing, Incorporated's license and/or suspend its existing license until the \$225.00 Annual Board Fee has been paid.

Robin Parker, Senior Staff Counsel, reported on the 2007 schedule of Board education. The Board anticipates touring the California Fuel Cell Partnership and a motorcycle distributor.

Dawn Kindel, Staff Manager, reported on the Board financial condition for the 4th quarter of fiscal year 2005-2006, and the 1st quarter of fiscal year 2006-2007. The Board expended 81% and 22%, respectively.

The members were provided with a report on the status of the Board's collection of its annual fee, which amounted to \$863,624. Out of 189 invoices only one manufacturer, Western Golf Car Manufacturing, Incorporated failed to pay the required fee. .

The 6th Annual Industry Roundtable is scheduled for March 27, 2007, in Sacramento. This event is being held in conjunction with the California Motor Car Dealers Association Gala Event. The members were encouraged to offer topic suggestions. If you have any questions concerning the Roundtable or would like to offer topic suggestions, please contact Robin Parker at (916) 455-1888 or rparker@nmvb.ca.gov.

Howard Weinberg, General Counsel, reported on the Department of Consumer Affairs, Arbitration Certification Program's (ACP) request that the Board not collect specified fees. In some instances the cost of collecting the fee exceeds the amount being collected. This matter was postponed until the January 2007 meeting. An accounting identifying various manufacturers along with their respective assessed ACP fees was requested by the members, and will be presented at the January meeting.

William Brennan, Executive Director, provided a report on the pending administrative matters. Polly Riggensbach, Staff Counsel, reported on case management. She indicated that six new protests had been filed since

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(December 13 Meeting Highlights, cont'd from page 3)

December 1, 2006, and 14 protests had been filed since mid-November. Mr. Weinberg provided a status of the pending court cases.

The following meetings for 2007 were tentatively selected: January 31, 2007, Los Angeles - General Meeting; March 27, 2007, Sacramento - Industry Roundtable; March 28, 2007, Sacramento - General Meeting. The remaining schedule will be set at the January meeting.

Mr. Brennan reported on the success of the 2006 California State Employees Charitable Campaign. The Board achieved 100% employee participation along with donations from several administrative law judges and Board members. A total of \$2,274 was received.

SUNNE WRIGHT MCPEAK LEAVES BT&H

Sunne Wright McPeak was appointed in November 2003, by Governor Arnold Schwarzenegger to serve as Secretary of the Business, Transportation and Housing Agency. She recently was named the President and Chief Executive Officer of the California Emerging Technology Fund (CETF), which was established by the California Public Utilities Commission to expand broadband services and use, particularly in underserved communities. Barry R. Sedlik, Undersecretary and Senior Advisor for Economic Development, will fill in as the acting secretary until a permanent appointment is made.

Ms. McPeak was directly involved in GoCalifornia, the transportation component of the Governor's Strategic Growth Plan, based on the premise that investments in mobility throughout the system will yield significant improvements in congestion relief; The California Partnership for the San Joaquin Valley, involving changes that will improve the economic well-being of the Valley and the quality of life of its residents; and the CALink Broadband Initiative, initiating action to reduce barriers to broadband accessing in response to ever-changing conditions in the technology marketplace. It was her efforts in this area that uniquely qualified her to take charge of CETF.

She has greatly contributed to the people of the State of California where she has been honored by more than thirty organizations throughout the region, state and nation, representing business, government, labor, academia, municipal affairs, community and social services.



PENDING COURT CASES

The Board does not participate in any action unless a significant state interest is implicated.

RAY FLADEBOE LINCOLN MERCURY, INC.,
Petitioner v. **NEW MOTOR VEHICLE BOARD,**
Respondent; AMERICAN ISUZU MOTORS,
INC., Real Party in Interest. Sacramento Co. Sup.
Court No. 04CS01552

RAY FLADEBOE LINCOLN MERCURY, INC.,
Petitioner v. **NEW MOTOR VEHICLE BOARD,**
Respondent; AMERICAN ISUZU MOTORS,
INC., Real Party in Interest. *Sacramento Co.*
Sup. Court No. 04CS01553

FORTY-NINER SIERRA RESOURCES, INC.,
Petitioner v. **NEW MOTOR VEHICLE BOARD,**
Respondent; SUBARU OF AMERICA, INC.,
Real Party in Interest. Sacramento Co. Sup.
Court No. 06CS00347
Third Circuit Court of Appeal No. C053641

SERPAAUTOMOTIVE GROUP, INC., Petitioner
v. **NEW MOTOR VEHICLE BOARD, Respon-**
dent; VOLKSWAGEN OF AMERICA, INC., Real
Party in Interest. Tulare Co. Sup. Court No. 06-
221437.

FRONTIER INFINITI, Petitioner v. **NEW MO-**
TOR VEHICLE BOARD, Respondent. NISSAN
NORTH AMERICA, INC., INFINITI DIVISION.
Real Party in Interest. Sacramento Co. Sup.
Court No. 06CS01628

MEDIATION SPOTLIGHT

In September 2006, Mediation Representative, Jackie Grassinger, received a request for mediation from a consumer for assistance with her 2003 Dodge Ram 1500, which was purchased new in March 2003.

The consumer reported that in July 2006, the vehicle had complete engine failure while she was traveling out of state. The consumer had the vehicle towed to the nearest Dodge dealership for service, which was Corley's Chrysler-Dodge in New Mexico. It was determined that the vehicle needed a new short block, and that the dealership would replace it. The consumer left the vehicle at the dealership for repair with the assurance that she would be called as soon as it was fixed. The consumer received a phone call in September from the dealership stating that the vehicle was ready to be picked up. The consumer picked up the vehicle, and the check engine light came on and the vehicle began to run rough. The consumer called DaimlerChrysler and was told, once again, to bring the vehicle in to the nearest Dodge dealership for service. It was at this time the consumer decided to contact the Board for assistance.

Ms. Grassinger initially contacted DaimlerChrysler to inquire about the complaint and request assistance. She also consulted Corley's Chrysler-Dodge in New Mexico regarding the repair made on the engine. Within a few days, Ms. Grassinger received a response from DaimlerChrysler stating that they would respond to the consumer's complaint, and that they had also contacted the consumer regarding traveling expenses incurred that were in addition to the engine failure.

On October 9, 2006, Ms. Grassinger received a letter from DaimlerChrysler stating that the vehicle had been repaired at McPeck's Dodge in Anaheim, California on September 28, 2006. However, on October 17, 2006, Ms. Grassinger received a call from the consumer once again stating that the vehicle was shaking while traveling over 55 m.p.h. In this telephone conversation, Ms. Grassinger informed the consumer that she may want to send a subsequent letter to DaimlerChrysler to let them know that the vehicle was still having problems, request that the manufacturer re-evaluate the problem, and ask that the vehicle be repurchased or replaced. The consumer submitted this letter to the Board's office on October 20, 2006, and it was forwarded to DaimlerChrysler.

On November 17, 2006, Ms. Grassinger received a letter from DaimlerChrysler stating that they would either

repurchase or replace the vehicle, and that they would also reimburse the consumer for incidental expenses incurred during the initial trip when the vehicle had the first engine failure.

**251 Cases Filed
July 2006 through December 2006**



Mediation Statistics

*You can reach
Mediation Services Staff at
(916) 445-1888
or
nmvb@nmvb.ca.gov*

MEDIATION PROGRAM CLOSES ANOTHER SUCCESSFUL YEAR

The Mediation Program received a total of 438 cases for the year of 2006. Out of the 438 cases received, 142 cases were closed because they were either not within our jurisdiction, had no merit, no action was sought, or the consumer abandoned the mediation process.

The remaining 296 cases were mediated. Out of the 296 cases, 95 cases (32%) were closed with a referral to arbitration or court and the remaining 193 cases (65%) were closed as successfully mediated (meaning both parties agreed on the outcome/resolution). This outcome is virtually identical to last year's success rate. In addition, out of the 193 successfully mediated cases, 55 of those cases, or 28%, resulted in a buyback from the manufacturer. This is a slight decrease from the number of buybacks received last year (67 out of 206 or 32%), representing only a 4% decrease in 2006 from 2005.



Laura Rader

NEW STAFF MEMBER

The Board recently hired a new Mediation Representative for its very busy Mediation Services Program. Laura Rader is currently studying for her Master's degree in Anthropology at California State University at Sacramento. She also volunteers for SHARE Institute, a national and international women's and children's support group, and SAK, Sacramento Area Kitten Rescue. Laura is currently being trained by staff and will soon be handling mediation cases. The Board is extremely happy to have her as one of the staff.

2006 CSECC ACHIEVEMENT

Each year the California State Employee Charitable Campaign ("CSECC") provides an opportunity for state employees to contribute and learn how their efforts benefit the programs and the agencies it serves. These agencies

provide a wide variety of services, from disaster relief to treatment and prevention of child abuse.

As a way to contribute to CSECC, the Board held fundraising events throughout the year, which included gift-basket raffles containing items donated by businesses and staff. These events were in addition to pledge forms that gave staff the opportunity to contribute to selected organizations through a one-time donation or through monthly payroll deductions.

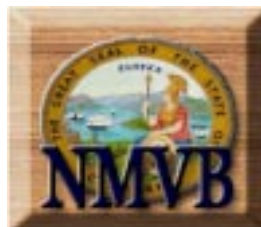
Due to the outstanding effort of all who participated, the Board achieved 100% participation from the staff. In addition, the campaign received donations from several Board members and Administrative Law Judges. A total of \$2,274.00 was raised.

HOLIDAY SPIRIT

Board staff showed their holiday spirit by donating canned food and other non-perishable food items to the Department of Motor Vehicles' ("DMV") 19th annual food drive. Beginning shortly after the first of November, staff member Wayne Kaweski took the lead in promoting the drive at the Board. With his encouragement and determination, the staff provided several boxes that were picked up by DMV staff in mid-December. All donations were distributed through Food Link, a network of food closets, emergency shelters, soup kitchens and senior sites in the greater Sacramento area.

UPCOMING BOARD MEETINGS

General Board Meeting
January 31, 2007
Los Angeles



Special Board Meeting
March 27, 2007
6th Annual Industry Roundtable

General Board Meeting
March 28, 2007
Sacramento

(*Board Meeting dates and locations are subject to change. A meeting agenda with time and location details is mailed 10 days prior to the meeting and is posted on the Board's website.)

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